

EXHIBITE

Nasri Hage

From: Jennifer B. Maisel
Sent: Friday, October 18, 2024 12:33 PM
To: Thomas E. Gorman
Cc: KVP-OAI; MoFo OpenAI Copyright Team; Latham OpenAI Copyright Team; NYT-AI-SG-Service@simplelists.susmangodfrey.com; DailyNews-AI-RFEM
Subject: RE: NYT/NYDN - Training Data Inspection (Oct 16-18)

Dear Tom,

You first communicated OpenAI's objections to our requests three days after we sent them and near the close of business just before a holiday weekend. Those objections were substantial, including refusing to install an Elasticsearch program as well as the vast majority of our requested packages and programs. We followed up that same day with a narrowed set of requests in an effort to minimize disputes, and have continued to work with you as quickly as possible in order to narrow our requests, including responding the same day they were raised.

There is no basis to suggest that our requests caused the issues we experienced with the environment OpenAI provided. Most of our requests have been to upload data – files – to the host computer, which should not have caused any problems given the already voluminous amount of training data being made available. Moreover, only five of the eighty-six packages we requested have been installed, and we have not had the ability to compile or execute our Java programs in the environment OpenAI provided.

We both recognize there is a problem, and we need to move forward with a workable solution so that we can run our searches in an efficient manner. We are welcome to a discussion to collaborate on that path forward and are waiting for you in the inspection area.

Thanks,
Jen



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From: Thomas E. Gorman <TGorman@keker.com>
Sent: Thursday, October 17, 2024 9:55 PM
To: Jennifer B. Maisel <jmaisel@rothwellfigg.com>
Cc: KVP-OAI <KVPOAI@keker.com>; MoFo OpenAI Copyright Team <OpenAICopyright@mofo.com>; Latham OpenAI Copyright Team <openaicopyrightlitigation.lwteam@lw.com>; NYT-AI-SG-Service@simplelists.susmangodfrey.com; DailyNews-AI-RFEM <DailyNews-AI-RFEM@rothwellfigg.com>
Subject: Re: NYT/NYDN - Training Data Inspection (Oct 16-18)

Jen—

You provided **a** list of requests *barely* seven days in advance, with three of those days being a holiday weekend. But that's not the list I'm talking about, because that list was never going to work. Those requests contained meaningful errors, included obviously irrelevant packages and software, and directed us to voluminous files that we could not open. Three days later, your colleague sent passwords to open the inaccessible files, as well as a revised list of extensive software "requirements" and a revised list of software-install requests. This was after hours on Friday of a holiday weekend, so this left us with less than 1 business day to review and install before you arrived. Then on Tuesday morning, just one day before your arrival, you sent another revised version of one of the two software requirements lists, and dropped other requests. Later on Tuesday, you reorganized and revised your requests, added new source-code install requests, and added 40 gigabytes (compressed) of new file-installation requests. Yesterday evening, you asked us to install new software and software code. Mid-day today, you asked for another source-code installation. And now in your note this evening, you're asking for still yet another source-code installation, plus unspecified packages from one of your earlier lists (and as we said, the only packages from your Tuesday request that were not installed were ones that we could not install). I **think** I've got that history down correctly, but candidly, it has been very difficult to track all the shifting requests and files and packages and archives.

I don't know exactly what happened Tuesday evening when we ran as many of your requests as we could to get them done before your arrival. But until that point, we had hosted many training-data inspections and had zero problems. I think we all want to get us back to the stable environment we had before we tried to accommodate all these last-minute requests. So that's why I said that I do not think our engineers are going to feel comfortable with another round of installs overnight.

Also, OpenAI did not insist that your consultants should prepare custom scripts and files in order to conduct this inspection. I told your colleague on Friday that I thought that the project your consultants were trying to engage in was way too complicated for your initial visit and that you should instead use your inspection to inspect. I said that it did not make sense to try to design such a complicated project before your initial inspection. And I said that we could potentially help collaborate on your search strategy, but first you should inspect the datasets to better inform that discussion.

Regarding your requests:

- I've asked OpenAI to work to diagnose and fix the issues that we saw. I'm going to defer to them on whether they think the answer will be in log files, but I'll make sure that's on the table.
- I'm not sure what it means to make persons "available to [you] live . . . to troubleshoot" tomorrow, but again, I've asked people to work on these issues.
- I don't know which scripts you are talking about, and we'd need to review them with in-house personnel before we could commit to supervise them. But we're definitely open to that type of

collaboration. Before you write complicated software, it might be better to discuss what we're trying to accomplish, because our team might be able to suggest shortcuts that make implementation easier etc.

Thanks,

—Tom

On Oct 17, 2024, at 6:33 PM, Jennifer B. Maisel <jmaisel@rothwellfigg.com> wrote:

[EXTERNAL]

Tom,

We provided our list of tools seven days in advance of the start of the inspection as required by the stipulated protocol, and have worked with you to further narrow those requests. The fact remains that the inspection environment we were provided has been unworkable—indeed you witnessed a disruption first hand this morning while you were helping us troubleshoot.

We look forward to collaborating on a path forward.

BR,
Jen

<image001.jpg>

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From: Thomas E. Gorman <TGorman@keker.com>
Sent: Thursday, October 17, 2024 6:07 PM
To: Jennifer B. Maisel <jmaisel@rothwellfigg.com>
Cc: KVP-OAI <KVPOAI@keker.com>; OpenAICopyright <OpenAICopyright@mofo.com>; openaicopyrightlitigation.lwteam@lw.com; NYT-AI-SG-Service@simplelists.susmangodfrey.com; DailyNews-AI-RFEM <DailyNews-AI-RFEM@rothwellfigg.com>
Subject: Re: NYT/NYDN - Training Data Inspection (Oct 16-18)

Jen—

I'll try to respond to the rest of this later tonight or tomorrow morning, but you should not expect us to do another installation of voluminous files and software tools tonight. As we have explained, the system was very stable before we attempted to accommodate your third revised and confusing list of hundred of requested software and files. The protocol that we agreed to is designed to give us time to handle those requests in an orderly and safe manner. We tried to accommodate your requests as best as we could on Monday evening, but until we are able to correct whatever problem was introduced by that effort, I can't guarantee that the engineers will feel comfortable doing another round of additions to the environment on short notice.

--Tom

On Oct 17, 2024, at 17:47, Jennifer B. Maisel <jmaisel@rothwellfigg.com> wrote:

[EXTERNAL]

Password: [REDACTED]

From: Jennifer B. Maisel
Sent: Thursday, October 17, 2024 5:47 PM
To: KVP-OAI <KVPOAI@keker.com>; OpenAICopyright <OpenAICopyright@mofo.com>; openaicopyrightlitigation.lwteam@lw.com
Cc: NYT-AI-SG-Service@simplelists.susmangodfrey.com; DailyNews-AI-RFEM <DailyNews-AI-RFEM@rothwellfigg.com>
Subject: NYT/NYDN - Training Data Inspection (Oct 16-18)

Counsel,

As you are aware, we have been encountering severe technical issues that have impeded our ability to search OpenAI's model training data as part of our onsite inspection the past two days. The connection to the host computer containing the model training data has been disrupted seven times now, and when access to the host was restored after each disruption, the model training data directories were not accessible and required further follow up with counsel. Each disruption also stopped any searches that were running, requiring us to start over. Indeed, we have only had access to the model training data for two hours today.

At OpenAI's insistence, our consultants prepared custom scripts and files in order to conduct our searches, and we would not expect our requests to have caused the issues we have experienced. Indeed, our requests have included packages and programs for widely used programming languages (Java, Python), as well as text data from the Works at issue in the two cases.

Because our four team members, myself included, have all traveled far for this inspection, we have a few requests in order to make sure we salvage the most of what we can out of this trip:

1. We request that a senior engineer review the log files for each of the disruptions the past few days in order to identify and troubleshoot the disruptions and model training data mounting issues.
2. We request that the person most knowledgeable about the inspection environment be made available to us live tomorrow beginning at 9am to troubleshoot any further disruptions.

3. We need all of our requested files and programs uploaded on the host machine so that our team can finalize and run the search uninterrupted.
4. We expect that we will be able to run our search program and search scripts tomorrow, and we ask that OpenAI run the scripts for us over the weekend and through our team's return next Tuesday, and ensure that the scripts continue to run. Our team will be available to answer any questions that may arise.

To be clear, our requests referenced in the second bullet above include the following:

1. Installation of all of the files available at [link] on the host (will send PW to the link by separate email)
 1. We have uploaded a new Java program that better addresses some of the environment instabilities we have experienced called "ARI_searchV2.zip" The password is [REDACTED].
2. Installation of 3.9.9 version of Maven and caching of the packages related to the java application
3. Installation of JDK
4. Installation of the remaining python packages requested in condarequirements.txt – please keep a log of any errors to share with us

Please confirm that we are in agreement on next steps forward here so that we can continue the inspection in an efficient way.

Thanks,
Jen

<image001.jpg>

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